

1
2
3
4
5
6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
8

9 HENRY FROMETA GONZALEZ,

10 Petitioner,

11 vs.

12 JAMES GREG COX, et al.,

13 Respondents.
14

Case No. 2:13-cv-02167-APG-NJK

ORDER

15 Petitioner, who is a prisoner in the custody of the Nevada Department of Corrections, has
16 submitted a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Dkt. #1). The court
17 dismisses this action because petitioner did not pay the filing fee and did not file an application to
18 proceed *in forma pauperis*, together with a signed financial certificate and a copy of his inmate
19 account statement, as required by 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2. Based upon
20 review of the file, it does not appear that a dismissal without prejudice would affect materially the
21 timeliness of a promptly filed new action.¹

22 Reasonable jurists would not find the court's conclusions to be debatable or wrong, and the
23 court will not issue a certificate of appealability.
24


25
26 ¹ Petitioner alleges that the judgment of conviction was entered on May 14, 2013, and that
27 he neither appealed the judgment nor filed a state habeas corpus petition. The federal one-year
28 period of limitation does not start until his judgment of conviction becomes final. 28 U.S.C.
§ 2244(d)(1)(A). In petitioner's case, the judgment became final on June 13, 2013. *See Nev. R.*
App. P. 4. About half a year remains in the one-year period of limitation, which is enough time for
petitioner to file the correct documents.

1 **IT IS THEREFORE ORDERED** that the clerk of the court shall send petitioner a blank
2 form for an application to proceed *in forma pauperis* for incarcerated litigants and a blank § 2254
3 habeas corpus petition form with instructions.

4 **IT IS FURTHER ORDERED** that this action is **DISMISSED** without prejudice to
5 petitioner's commencement of a new action in which he either pays the filing fee in full or submits
6 a complete application to proceed *in forma pauperis*, accompanied by a signed financial certificate
7 and a statement of his inmate account. The clerk of the court shall enter judgment accordingly.

8 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

9 Dated: December 2, 2013.

10
11 
12 _____
13 ANDREW P. GORDON
14 United States District Judge
15
16
17
18
19
20
21
22
23
24
25
26
27
28